

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esther Carpenter	Team: Team # 1	CCRB Case #: 200805585	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/15/2008 4:00 PM	Location of Incident: Washington Square Park and inside the 6th Precinct located at 233 West 10th Street.	Precinct: 06	18 Mo. SOL 10/15/2009	EO SOL 10/15/2009	
Date/Time CV Reported Tue, 04/15/2008 4:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/18/2008 1:40 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Robert Numssen	06300	919486	NARCBMS
2. DT3 Shawn Gordon	06155	899297	NARCBMS
3. DT3 Erik Ruiz	06476	924435	NARCBMS
4. POM Frederic Ortiz	29958	935440	NARCBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Saed Rabah	07604	914919	NARCBMS
2. SGT Frank Fitzgerald		887261	NARCBMS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Shawn Gordon	Abuse: Detective Shawn Gordon strip-searched § 87(2)(b)	
B.DT3 Shawn Gordon	Force: Detective Shawn Gordon stabbed § 87(2)(b) s hand with a key.	
C.DT3 Robert Numssen	Force: Detective Robert Numssen used physical force against § 87(2)(b)	
D.DT3 Erik Ruiz	Abuse: Detective Erik Ruiz refused to provide his name to § 87(2)(b)	
E.POM Frederic Ortiz	Abuse: Officer Frederic Ortiz refused to provide his name to § 87(2)(b)	

### Synopsis

On April 15, 2008, at approximately 10:00 AM, § 87(2)(b) was in Washington Square Park in Manhattan. He spoke with another individual and then tried to leave the park, when Detective Erik Ruiz, assigned to Narcotics Borough Manhattan South, approached him and grabbed his coat. Detective Shawn Gordon, also assigned to Narcotics Borough Manhattan South, then handcuffed him. Detective Ruiz began to search § 87(2)(b)'s coat and Detective Robert Numssen, assigned to Narcotics Borough Manhattan South, searched his pants, waistband, socks, and boots. § 87(2)(b) stated that Detective Gordon also searched his waistband then and opened the button to his fly and placed his hands down § 87(2)(b)'s boxers near his anal cavity [Allegation A]. § 87(2)(b) stated that he moved away from the detective, though, so his anal cavity was not entered.

§ 87(2)(b) was transported to the 6th Precinct stationhouse and taken into the bathroom to be searched by Detectives Gordon and Numssen. When § 87(2)(b) refused to remove his metal chains and gold teeth caps, Detective Gordon lifted his arms, as they were still handcuffed, past his joint and stabbed the palm of his right hand with a sharp object, which § 87(2)(b) believed to be a key [Allegation B]. § 87(2)(b) then attempted to stand straight up and Detective Numssen punched the back of his head [Allegation C]. § 87(2)(b) stated that he was then handcuffed to a bench outside of the holding cell. He stated that he asked Detective Ruiz and Officer Ortiz for their names, but they did not provide them [Allegations D and E].

§ 87(2)(g)

[REDACTED]

### Summary of Complaint

On April 15, 2008, Sergeant Frank Fitzgerald, of Narcotics Borough Manhattan South, called the Command Center to report that § 87(2)(b) resisted while being handcuffed in the 6th Precinct bathroom. Sergeant Fitzgerald added that he claimed that officers assaulted him, but he did not have any injuries and refused medical attention. Sergeant Fitzgerald noted that EMS was notified and when an EMT arrived, § 87(2)(b) did not have broken bones or require stitches and was not complaining of injuries or pain. This complaint was given log #08-16258 and forwarded to the CCRB on April 18, 2008 [Encl. 6 a-b]. On April 16, 2008, § 87(2)(b) called IAB and connected her husband, who stated that he was arrested and "officers took him into the bathroom and beat him." He added that Detectives Rabah and Ruiz and Officer Ortiz, all assigned to the Narcotics Borough Manhattan South, "kicked him in his ribs and stomp[ed] on his right arm. § 87(2)(b) states that his right forearm [hurts] and he thinks that it might be broken." This complaint was given log #08-16544 and forwarded to the CCRB on April 21, 2008 [Encl. 6 c-g]. On May 27, 2008, § 87(2)(b) was interviewed at § 87(2)(b) at 9:35 AM [Encl. 8 a-w]. He is a § 87(2)(b)-old male. § 87(2)(b). He provided the following statement to the CCRB:

On April 15, 2008 at approximately 10:00 AM, § 87(2)(b) was in Washington Square Park in Manhattan. He stated that a boy, who § 87(2)(b) described as a black male with dark skin and wearing a black coat with a hood and a fitted baseball Starter cap, approached him and gave him a "pound" by bumping § 87(2)(b)'s knuckles against his own with a closed fist. He then asked § 87(2)(b) for a match. At this point, § 87(2)(b) stated that he was sitting on a bench inside the park and he noticed officers approximately thirty feet away from him at the corner of the park.

§ 87(2)(b) stated that there were other people in the park and they began to leave when the officers arrived. The officers were standing in the walkway just outside the park and when people walked by them to exit the park, the officers searched and handcuffed them. § 87(2)(b) then stood up and walked to the public bathroom, which was in the opposite direction of the officers. He entered the bathroom and spent approximately two minutes inside. After exiting the bathroom, § 87(2)(b) walked toward the officers to exit the park. He was wearing a black Fubu jacket with a hood, a black and grey Starter cap with a black du-rag underneath, and blue jeans with a gold flower design on the side of them.

§ 87(2)(b) stated that he saw the boy he had been talking with get “snatched up” by the police and he thought to himself, “Uh oh, shorty got arrested, let me get out of here.” As § 87(2)(b) walked past the officers, Detective Erik Ruiz assigned to Narcotics Borough Manhattan South, grabbed the front of the coat he was wearing and said, “Keep still. Stop moving.” § 87(2)(b) described Detective Ruiz as a 5’7” tall Spanish male with a chubby build, a moustache and goatee and wearing plainclothes. § 87(2)(b) stated that Detective Shawn Gordon, also assigned to Narcotics Borough Manhattan South, immediately handcuffed § 87(2)(b). Detective Gordon was described as 5’8” tall black male with an average build and wearing plainclothes. § 87(2)(b) asked the detectives why he was being arrested and they did not respond.

§ 87(2)(b) was then searched. Detective Ruiz entered the pockets on § 87(2)(b)’s jacket and another detective, Detective Robert Numssen, of Narcotics Borough Manhattan South, entered the pockets in his pants. Detective Numssen was described as 5’11” tall white male with a stocky build and wearing plainclothes. All three officers had already been wearing rubber gloves before they interacted with § 87(2)(b). Detective Numssen then ran his finger along § 87(2)(b)’s waistband. He also removed § 87(2)(b)’s socks and boots to search them. § 87(2)(b) later stated that Detective Gordon had checked around the waistband of his pants and opened the button on the fly to his jeans. Detective Gordon checked around the waistband of § 87(2)(b)’s boxers and stuck his hand down to the bottom of § 87(2)(b)’s boxers to his anal cavity. § 87(2)(b) jerked away and Detective Gordon did not enter § 87(2)(b)’s anal cavity. § 87(2)(b) stated, “What are you doing?” and Detective Gordon replied, “Stay still, stop it,” referring to § 87(2)(b) jerking away. § 87(2)(b) stated that his pants loosened when Detective Gordon put his hand down his boxers and they fell down. § 87(2)(b) stated that Detective Saed Rabah and Officer Frederic Ortiz, both of Narcotics Borough Manhattan South, were also present during this incident. Detective Rabah was described as a 5’11” tall Spanish chubby male with a moustache and goatee and Officer Ortiz was described as a 5’10” tall Latino male with an average build. Both were in plainclothes. § 87(2)(b) added that a sergeant who was approximately 6’3” tall, white, with a heavy build, glasses and a “Beatles type haircut” was also present.

§ 87(2)(b) stated that the officers recovered a “bushel” of marijuana that was in the corner of his jeans’ right pocket. § 87(2)(b) indicated that the bushel was approximately an inch big. § 87(2)(b) added that the officers did not recover any money on him. At some point during the arrest on the street, § 87(2)(b) stated that an officer took his wallet and identification.

§ 87(2)(b) was placed in a van and driven around before he was brought to the 6th Precinct. He arrived at the precinct at approximately 1:00 or 2:00 PM. He was brought to the front desk, but was not searched or frisked. He stated that his arresting officer, Detective Rabah, escorted him into a holding cell and then he did not have any contact with him again. There were about eight other men in the holding cell. § 87(2)(b) stated that he did not know any of the other males, but the boy he “allegedly sold weed to [was in the cell], § 87(2)(b) § 87(2)(b) added that he overheard another male’s name as being “§ 87(2)(b)

Approximately five to ten minutes later, Detectives Numssen and Gordon escorted § 87(2)(b) out of the holding cell. § 87(2)(b) stated that the detectives took him out by the collar of his jacket and “rushed him into another room.” § 87(2)(b) was taken into a bathroom. Later in the interview, § 87(2)(b) stated that only Detective Numssen escorted him into the bathroom, and Detective Gordon was already inside the bathroom. § 87(2)(b) stated that the bathroom was down a small hallway on the same floor as the holding cell. At the end of the hallway was a room and the bathroom was on the right side of the hallway. There was one stall in the bathroom and the entire bathroom was approximately six feet wide each way.

§ 87(2)(b) stated that he and Detectives Gordon and Numssen were the only people in the bathroom and Detective Numssen told him to place the jewelry he was wearing into a bag. § 87(2)(b) stated that he had two crowns on his teeth in his mouth. He described these crowns as gold caps for his teeth. He also stated that he was wearing a link chain that has a diamond cross on it and it was about 40". § 87(2)(b) was also wearing white gold rosary beads and another chain which was slim like an army nametag chain, with an "energy crystal" on it. § 87(2)(b) stated that he was also wearing a watch and an earring, and the detectives did not ask him to take those off. § 87(2)(b) stated that the detectives were "feeling on [the necklace]" ever since the arrest. § 87(2)(b) stated that the detectives saw from the release papers they had taken during the arrest that he had only been released from prison the previous day and they asked him, "How did you get all this?" and grabbed the necklace. § 87(2)(b) stated that all the officers present during the arrest were saying this. § 87(2)(b) stated that he did not see this happen to anyone else and the other prisoners were wearing jewelry.

§ 87(2)(b) stated that the officers were not holding a bag. § 87(2)(b) stated that it "did not sound correct to [him] because [he] was never asked before during previous arrests to put [his] jewelry anywhere or take [his] jewelry off." § 87(2)(b) asked the officers why they were taking his jewelry and they responded, "Because we have to."

§ 87(2)(b) then asked to speak with a superior officer or his sergeant and the officer replied, "No you can't speak to my sergeant. Just put the jewelry in the bag." § 87(2)(b) added that the officer did not "speak about vouchering [his] jewelry, just putting it in a bag." § 87(2)(b) asked if he could have his one phone call to ask his wife to come to the precinct and pick up the jewelry. The officer refused this request, telling him that they did not have any phones for him to use.

A detective asked him again, "Are you going to put your jewelry in the bag?" and § 87(2)(b) replied, "No, I'm not going to put my jewelry in the bag until I see your sergeant." Both detectives were facing § 87(2)(b) s back, Detective Numssen was on his left side and Detective Gordon was on his right side. § 87(2)(b) stated that he was then recuffed and "the blow proceeded." (Later in the interview, § 87(2)(b) stated that he was handcuffed the entire time from when he was taken out of the holding cell). § 87(2)(b) went into further detail stating that Detective Gordon lifted his right arm past its joint as his hands were cuffed together. (Later in the interview, § 87(2)(b) stated that each detective placed an arm under his arm and bent him forward). When § 87(2)(b) tried to lower his arms flat against his back, Detective Gordon took a key and stabbed § 87(2)(b) s right palm and twisted the key, "so that § 87(2)(b) would loosen up." Later in the interview, § 87(2)(b) stated that being stabbed in the hand made him bend down at his waist. § 87(2)(b) stated that he did not see the key, but that was what the object felt like and he heard the jingling of keys. As § 87(2)(b) was bent down, a detective took off the chains around his neck.

When Detective Gordon released the key, § 87(2)(b) stood up straight. He stated that the detectives let go of their grasp of him so he felt it was safe to stand up. § 87(2)(b) stated that he stood up slowly. Detective Numssen then punched § 87(2)(b) in the back of his head toward the left side with a closed fist. At first, § 87(2)(b) stated that the detectives did not say anything when he was punched in the head, but later stated the detectives said, "Stop resisting." § 87(2)(b) stated that he was not resisting. § 87(2)(b) stated that he was dizzy as a result of the punch. § 87(2)(b) said, "Here," and spit the crowns out of his mouth.

§ 87(2)(b) stated that Detective Numssen then yelled, "Officer needs assistance! Officer needs assistance!" (Later in the interview, § 87(2)(b) stated that Detective Numssen yelled for assistance immediately after § 87(2)(b) refused to put his jewelry in the bag and no one responded until the incident was over). More officers rushed into the room, "but by that time, it was over already." § 87(2)(b) stated, "After Detective Numssen punched me in the back of the head, he felt like he had done something wrong, so he shouted [for assistance from other officers]." § 87(2)(b) later stated that Detective Numssen went outside the bathroom to get assistance. Detectives Ruiz, Rabah, Officer Ortiz and the Sergeant, later identified as Sergeant Frank Fitzgerald of the Narcotics Borough Manhattan South, all came in the bathroom. § 87(2)(b) stated that the detectives did not need assistance, "they were just doing certain things to cover their back."

Later in the interview, § 87(2)(b) stated, “There were officers in the bathroom when the detective punched me, but they claimed that they never saw anything.” § 87(2)(b) stated that the door of the bathroom was open and all the officers from the arrest were present. When § 87(2)(b) stood up straight again, the officers were coming in. He stated that all of the officers stated they saw Detective Numssen punch him because they were joking, “That’s why [Detective Numssen] is known to be a weak puncher.”

§ 87(2)(b) stated that he had been in the bathroom for approximately ten minutes. § 87(2)(b) stated that he was not making any body movements or motions when they were asking him to remove his jewelry. § 87(2)(b) stated that as he was talking with the detectives about removing his jewelry, his tone of voice was “firm.” He stated that he did not use any profanity before force was used, but “afterwards used a whole lot of profanity until I went to sleep” and was cursing and screaming. He used multiple profanities and stated that he wanted to “see the ambulance.” He was then taken to a small bench just outside of the holding cell. He was handcuffed to the bench and his legs were shackled. § 87(2)(b) laid down on the bench and placed his coat over his head. He stated that he was “fading in and out of consciousness and [he] felt dizzy.”

§ 87(2)(b) stated that Detective Ruiz and Officer Ortiz began “poking and prodding” him as he was on the bench by saying, “Don’t say nothing or this is going to take a turn for the worse. They’re already looking over charges to put on you.” § 87(2)(b) specifically asked Detective Ruiz and Officer Ortiz for medical attention. § 87(2)(b) stated that the officers threatened him by saying, “If you make this hard for us, you’re not going to see the judge. Don’t worry it’s only a weed charge, there’s no reason for you to get upset, you’ll see the judge and you’ll be able to get out of here. If you make it hard for us, as far as going to the hospital and reporting injuries, then we have to take you to the hospital and then you’re not going to see the judge for two days later.”

§ 87(2)(b) stated that he was on the bench for hours. Officers would come in and say, “Listen, did you come down now? Are you calm? Are you calm? Because we need to take your prints now,” and, “Just let us take your prints, get calm, and they might stop doing what they’re doing back there, because my sergeant is really angry.” § 87(2)(b) stated that he cursed when the officers came near him because he didn’t want them to touch him and that was why the officers asked him if he was calm. § 87(2)(b) stated that he did not make any motions with his body during this time. Officers were also telling people in the holding cell that § 87(2)(b) was their “confidential informant and snitch.” § 87(2)(b) could not recall which officer said this but described the officer as a 5’11”-6’ tall Spanish or Hawaiian male in plainclothes, weighing 190 pounds, with a heavy build.

§ 87(2)(b) stated that at one point, an EMT came to the precinct. However, before he saw the EMT, Detective Ruiz and Officer Ortiz told him, “If you tell them, then they got to take you to the hospital, it puts a wait on all this and you got to see your parole officer.” § 87(2)(b) stated that the officers knew he had to report to parole because they took his parole release papers and his state identification card. They took these items out of his wallet, but returned his wallet to him. Therefore, he could not call his parole officer to inform him where he was. § 87(2)(b) stated that he was at the precinct until 6:00 or 7:00 PM, when he was brought to a court building.

§ 87(2)(b) stated that Detective Numssen claimed that § 87(2)(b) kicked him in the hand, causing him swelling and pain. § 87(2)(b) added that this allegation changed his charges to a felony.

An officer called his wife, § 87(2)(b) to go to the precinct to retrieve his jewelry, which she did. § 87(2)(b) stated that § 87(2)(b) obtained Detective Numssen’s name because when she arrived at the precinct, his hand was bandaged with gauze and she asked him his name, which he provided. § 87(2)(b) stated that he obtained Detective Ruiz and Officer Ortiz’s names because he “spent a lot of time with them.” At first, he stated that Detective Ruiz and Officer Ortiz told him their names and then stated that the officers did not provide their names or any of the other officers’ names when he asked for them. § 87(2)(b) stated that he spoke with the District Attorney and she also helped him obtain names of the officers.

§ 87(2)(b) stated that as a result of the punch, he received a gash on his head and his head was swollen. From having his arms raised behind him, he suffered from a loose ligament in his right elbow and he had a scar from the key being stabbed into his right palm. § 87(2)(b) also added that he had scars from the handcuffs around his wrists. § 87(2)(b) added that he defecated blood for four days after the incident, however he did not know what this was a result of.

§ 87(2)(b) stated that he went to § 87(2)(b) on § 87(2)(b), and § 87(2)(b) to receive medical treatment. § 87(2)(b) stated that he was charged with "§ 87(2)(b) § 87(2)(b)." § 87(2)(b)

## Results of Investigation

### **Civilian Statement**

§ 87(2)(b)

*On June 30, 2008, the undersigned spoke with § 87(2)(b) and obtained a telephone statement [Encl 24 t]. He provided the following statement to the CCRB:*

On April 15, 2008, § 87(2)(b) was arrested with § 87(2)(b). He described § 87(2)(b) as a large black male and confirmed that § 87(2)(b) had a patch over one of his eyes. § 87(2)(b) stated that he had already been in the prisoner van when he first observed § 87(2)(b). He stated that § 87(2)(b) was being arrested and no officers placed their hands down § 87(2)(b)'s pants or strip-searched him. He stated that the officers found contraband on § 87(2)(b).

§ 87(2)(b) stated that at the precinct stationhouse, all the prisoners were taken into the bathroom to get a pat down and a search. He stated that an altercation occurred when § 87(2)(b) was in the bathroom, however, he did not see anything and only heard about it. § 87(2)(b) did not know "who hit who first" regarding § 87(2)(b) and the officer. § 87(2)(b) stated that § 87(2)(b) was "looking for a fight." In the cell, § 87(2)(b) stated that § 87(2)(b) said he hit the cop because the officer wanted to take his jewelry and he wouldn't give it to him.

§ 87(2)(b) stated that § 87(2)(b) was "looking for trouble." § 87(2)(b) also stated that § 87(2)(b) was handcuffed to a bench in front of the cell and stated that this was done because § 87(2)(b) "wouldn't behave." § 87(2)(b) stated that § 87(2)(b) was yelling and screaming. § 87(2)(b) stated that he did not hear § 87(2)(b) ask for a doctor at any point or ask to go to the doctor or for medical attention. § 87(2)(b) stated that § 87(2)(b) was intoxicated and § 87(2)(b) also said that he had been in the park drinking all day. § 87(2)(b) did not see § 87(2)(b) drinking in the park.

§ 87(2)(b)

*On July 7, 2008, the undersigned spoke with § 87(2)(b) and obtained a telephone statement [Encl. 24 u]. He provided the following statement to the CCRB:*

On April 15, 2008, § 87(2)(b) was at the precinct stationhouse when § 87(2)(b) was brought in. § 87(2)(b) verified § 87(2)(b)'s identity by describing him as wearing a patch over his eye). § 87(2)(b) stated that § 87(2)(b) was taken into the bathroom at the stationhouse. He added that every inmate was taken into the bathroom one by one. § 87(2)(b) did not see the following events, but heard from § 87(2)(b) and an officer that he was punched in the head. § 87(2)(b) stated that the officer who repeated this story was a Hispanic officer, about 5'5" tall with dark hair, a chubby build and approximately 30 years old. The Hispanic officer was saying that the officer who hit § 87(2)(b) on his head was a white officer and was the only one in the bathroom when the incident occurred. The Hispanic officer was speaking in front of the prisoners that the officer who punched § 87(2)(b) was "soft." § 87(2)(b) stated that when § 87(2)(b) came out of the bathroom, he was yelling and he asked for medical attention. The sergeant called EMS for § 87(2)(b) and they arrived and looked at him.

§ 87(2)(b) called back later that day to clarify that all these events occurred in the stationhouse and not in Washington Square Park. He stated that he was in the van that picked up § 87(2)(b) in Washington Square Park, but when they arrived, § 87(2)(b) was already in handcuffs and just placed inside the van.

## **Officer Statements**

### ***Detective Saed Rabah***

Detective Rabah's **memo book** [Encl. 10 a-c] indicated that between 12:30 PM and 2:40 PM, he was in the vicinity of the 6th Precinct and had five arrests. At 3:20 PM, he noted that Detective Numssen had been assaulted by § 87(2)(b) and was en route to § 87(2)(b). Detective Rabah returned to the 6th Precinct at 3:30 PM.

The **Arrest Report** [Encl. 10 d-e] completed by Detective Rabah stated that at 1:55 PM, on April 15, 2008, § 87(2)(b) was observed selling a quantity of marijuana to another individual in front of 41 Washington Square South in Manhattan. A search performed after a lawful arrest found that § 87(2)(b) was in "possession of a crack pipe with residue and loose marijuana." The report added that during a search, § 87(2)(b) was asked to remove a white metal chain with stones for safekeeping, but he refused to comply. He was the instructed to do so by an officer and § 87(2)(b) refused again. The report indicated that § 87(2)(b) "became combative by moving, flailing his arms, and kicking. § 87(2)(b) was trying to prevent the officer from cuffing him and causing the officer to injure his right hand."

The **Criminal Court Complaint** [Encl. 10 f-h] stated that Detective Ruiz informed Detective Rabah that one twist of marijuana was recovered from § 87(2)(b)'s pants' pocket and a "pipe/stem containing crack/cocaine residue" was recovered from § 87(2)(b)'s waistband. It also indicated that Detective Numssen informed Detective Rabah that § 87(2)(b) refused to remove his metal chains and began to "[flail] his arms and [kick] at" Detectives Numssen and Gordon. Detective Numssen stated that § 87(2)(b) kicked his right hand, "causing [him] to suffer swelling and bruising to the right hand."

### **CCRB Statement**

*Detective Rabah is a 5'11" tall Hispanic male weighing 220 pounds with blue eyes and is bald. He was interviewed at the CCRB on September 12, 2008 at 9:07 AM [Encl. 10 i-j]. On April 15, 2008, Detective Rabah worked in plainclothes from 9:27 AM until 6:00 PM. He was assigned arresting officer with Sergeant Fitzgerald in an unmarked blue Ford. He provided the following statement to the CCRB:*

On April 15, 2008, at approximately 4:00 PM, Detective Rabah was working alone inside the command post on West 4th Street and Sullivan Street in Manhattan. Inside the command post, one is able to view footage being recorded by cameras that are set up throughout Washington Square Park. Detective Rabah observed § 87(2)(b) exchange marijuana for U.S. currency from another individual, who was also apprehended. Detective Rabah stated that he determined it was marijuana because it looked like a green leafy substance.

Detective Rabah then radioed this information to the field team, however he could not recall the details of his transmission. When Detective Rabah arrived at the location where § 87(2)(b) was in Washington Square Park, which is about one block from the command post, § 87(2)(b) had already been apprehended by members of the field team. Detective Rabah did not know which members of the team had apprehended him and handcuffed him. Detective Rabah stated that Detective Ruiz recovered a crack pipe and marijuana from § 87(2)(b) but Detective Rabah did not witness Detective Ruiz or any other officer search § 87(2)(b). Detective Rabah did not know from where on § 87(2)(b)'s body these items were recovered.

Detective Rabah remained at Washington Square Park until 2:40 PM. He stated that he made five arrests that day, but he was not sure if they occurred before or after § 87(2)(b) was arrested. Detective Rabah returned to the 6th Precinct stationhouse at approximately 3:30 PM. Detective Rabah was processing arrests at the stationhouse and stated that he did not come in contact with § 87(2)(b) at any time. Detective Rabah stated that he heard § 87(2)(b) assaulted Detective Numssen, but he was not present for this incident. Detective Rabah stated that this incident occurred in the bathroom at the stationhouse.

Detective Rabah stated that individuals are searched in the bathroom. During this time, Detective Rabah was processing his arrest paperwork in a room downstairs. He stated that it is downstairs from the bathroom. Detective Rabah stated that he was not present as § 87(2)(b) was being strip-searched.

Detective Rabah stated that after the assault in the bathroom, § 87(2)(b) was taken to the cell area in the stationhouse. Detective Rabah stated that he was still downstairs processing the arrest paperwork and was not present in the cell area. Detective Rabah stated that he signed the Supporting Deposition concerning the incident, but he was only informed by Detective Numssen of the assault in the bathroom, and did not witness it. He stated that according to his paperwork, Detective Numssen informed Detective Rabah that § 87(2)(b) was flailing his arms and kicking. Detective Rabah stated that at least one other person was in the bathroom, but he did not recall who it was. Detective Numssen stated that § 87(2)(b) never asked him for his name and/or shield number and he did not hear § 87(2)(b) ask any other officer for their name and/or shield number. Detective Rabah stated that when he came in contact with § 87(2)(b) at Washington Square Park, he did not observe any injuries on him nor was he complaining of any injuries. Detective Rabah stated that he did not hear of any officer needing to use force against § 87(2)(b). Detective Rabah stated that he never came in physical contact with § 87(2)(b) at any point during the incident.

#### ***Detective Shawn Gordon***

Detective Gordon's **memo book** [Encl. 9 a-b] indicated that at 12:00 PM, he was performing buy and busts in the vicinity of the 6th Precinct.

#### **CCRB Statement**

*Detective Gordon is a black male officer. He was interviewed at the CCRB on July 15, 2008 at 11:37 AM [Encl. 9 c-e]. On April 15, 2008, Detective Gordon worked from 9:27 AM until 6:00 PM. He was working in plainclothes with PO Ortiz and Detective Rabah, Detective Numssen, Sergeant Fitzgerald, and Detective Ruiz. He was assigned to the chase auto, which was an unmarked gold Mitsubishi. He provided the following statement to the CCRB:*

On April 15, 2008, at approximately 12:00 PM, Detective Gordon stopped an individual named § 87(2)(b) in Washington Square Park in Manhattan. Detective Gordon stated that he received a radio transmission from an observation officer regarding § 87(2)(b) which was why he stopped him. The only thing Detective Gordon could recall that was put over the radio was that the officer observed § 87(2)(b) smoking crack in the park. He added that Detective Rabah was most likely the officer who put over the transmission.

Detective Gordon stopped § 87(2)(b) as § 87(2)(b) was about to exit the park at West 4th Street and MacDougal Street. Detective Gordon stated that § 87(2)(b) was alone. Detective Gordon stated that he placed him in handcuffs. Detective Gordon stated that § 87(2)(b) was acting very belligerent and uncooperative. He added that § 87(2)(b) was cursing and saying, "Why the fuck are you stopping me? I didn't fucking do nothing." Detective Gordon stated that § 87(2)(b) was hostile and continued to curse saying, "You guys are fucking with me."

Detective Gordon stated that since § 87(2)(b) was not cooperative, he decided to frisk him for weapons before placing him in the prisoner van. Detective Gordon stated that he frisked § 87(2)(b)'s waist area, legs and above his waist area, near his chest. Detective Gordon stated that he stayed on the outside of § 87(2)(b)'s clothing. Detective Gordon stated that he did not recover anything from the frisk. As Detective Gordon and § 87(2)(b) were waiting for the prisoner van to arrive, Sergeant Fitzgerald and Detective Rabah came over to them. Detective Gordon stated that neither Sergeant Fitzgerald nor Detective Rabah came in physical contact with § 87(2)(b). Detective Gordon stated that Sergeant Fitzgerald told § 87(2)(b) to calm down and Detective Rabah did not say anything to him. Detective Gordon stated that he informed the prisoner van drivers that § 87(2)(b) had not been searched, so he instructed the officers in the van to watch him. Detective Gordon stated that they had several arrests at Washington Square Park that day.



DEA Representative Joe Cuzinelli interjected and stated that § 87(2)(b) was already under arrest because of the observation by Detective Rabah and there was no need to search him for contraband. Detective Gordon agreed.

§ 87(2)(b) was then transported to the 6th Precinct stationhouse. Detective Gordon stated that after being brought in front of the sergeant's desk, the prisoners were lined up outside of the bathroom. The bathroom is approximately fifteen feet from the front desk, but there is a wall obstructing the view from the desk to the bathroom. Detective Gordon stated that all of the searches are done under the supervision of the sergeant, so the sergeant would be in the vicinity. Detective Gordon stated that on this day, Sergeant Fitzgerald was outside of the bathroom door. Each prisoner was brought into the bathroom separately to be searched by Detective Numssen and Detective Gordon. Detective Gordon stated that the door was open a little.

When § 87(2)(b) was brought into the bathroom, Detective Numssen asked § 87(2)(b) to remove his jacket and du-rag. Detective Gordon then asked § 87(2)(b) to remove his chains, which § 87(2)(b) refused to do. Detective Gordon described one of the chains as long and silver. Detective Gordon asked § 87(2)(b) to remove his chains a second time and § 87(2)(b) asked why he had to remove them. Detective Gordon stated that it was procedure and he was not allowed to have them in the prisoner cell. § 87(2)(b) again refused. Detective Gordon stated that he then informed § 87(2)(b) that he was going to be handcuffed. Detective Gordon further informed § 87(2)(b) that he was going to be removed outside of the room until he was ready to cooperate.

Detective Gordon stated that when he approached § 87(2)(b) § 87(2)(b) placed his hands in his pockets, backed up three or four steps to the wall and said, "You ain't cuffing me." Detective Gordon stated that he was in the doorway of the stall and § 87(2)(b) backed up so that he was against one of the walls inside the stall. Detective Numssen was standing to Detective Gordon's right side. Detective Gordon said, "You're getting cuffed," and § 87(2)(b) replied, "You're not cuffing me." Detective Gordon stated that he used his left hand to grab § 87(2)(b)'s right wrist and pull it out of his pocket. Detective Gordon stated that § 87(2)(b) then bent at his waist and charged at Detective Gordon, bear hugging him around the detective's waist. Detective Gordon then bent over § 87(2)(b) and grabbed him around his waist area. § 87(2)(b) and Detective Gordon then began to struggle for a few seconds. Detective Gordon stated that they were in the stall by this point. Detective Numssen became involved in the struggle to assist Detective Gordon in handcuffing § 87(2)(b). Detective Gordon could not recall where Detective Numssen touched § 87(2)(b) in order to assist him. Detective Gordon stated that at this time, Detective Numssen's hand got caught in between § 87(2)(b) and the stall.

Detective Numssen then called for help. Before any of the other officers entered the bathroom, Detective Gordon and Detective Numssen were able to handcuff § 87(2)(b). Detective Ruiz and Officer Ortiz entered the bathroom and Detective Gordon and Detective Numssen left the bathroom. Detective Gordon added that Detective Numssen's hand was swollen from the struggle. Detective Gordon then accompanied Detective Numssen to § 87(2)(b). Detective Gordon stated that he did not see § 87(2)(b) again after leaving the bathroom.

Detective Gordon stated that he did not hear § 87(2)(b) complain of any injuries in the bathroom. Detective Gordon stated that he did not observe any injuries on § 87(2)(b) after the struggle. Detective Gordon stated that he did not have his handcuffs out during the struggle. He stated that to his recollection, he did not observe Detective Numssen's handcuffs out. Detective Gordon stated that he did not have anything in his hands during the struggle. Detective Gordon stated that during the struggle, there was no object that would have been stabbed into the palm of his hand. Detective Gordon stated that neither he nor Detective Numssen stabbed § 87(2)(b) with a key or another object in the palm of his hand. Detective Gordon stated that neither he nor Detective Numssen pulled § 87(2)(b)'s arms up as they were handcuffed behind him. Detective Gordon also denied punching § 87(2)(b)'s head and denied that Detective Numssen did this action. Detective Gordon did not hear § 87(2)(b) ask for medical attention. Detective Gordon stated that § 87(2)(b) was not strip-searched in Washington Square Park.

***Detective Robert Numssen***

Detective Numssen's **memo book** [Encl. 13 a-b] indicated that at 3:08 PM, he was in the 6th Precinct stationhouse and at 3:20 PM, he was assaulted by a male perpetrator. At 3:35 PM, Detective Numssen was transported to § 87(2)(b) regarding "injury sustained."

§ 87(2)(a) PHL § 18(6)

**CCRB Statement**

*Detective Numssen is a white male officer with hazel eyes. He was interviewed at the CCRB on July 15, 2008 at 10:55 AM [Encl. 13 d-f]. On April 15, 2008, Detective Numssen worked in plainclothes from 9:27 AM until 6:00 PM. He was assigned to the prisoner van with Detective Ruiz. The van was an unmarked grey Ford with passenger seats. He provided the following statement to the CCRB:*

On April 15, 2008, at approximately 12:00 PM, Detective Numssen was conducting "enforcement" in the vicinity of the 6th Precinct with Detective Rabah, Detective Gordon, Officer Ortiz and Detective Ruiz. § 87(2)(b) was observed making a hand to hand transaction selling drugs inside Washington Square Park in Manhattan. Detective Numssen stated that he did not personally observe § 87(2)(b)'s transaction and he did not recall which officer did. Detective Numssen stated that he believed his team was observing the area for approximately a half hour before § 87(2)(b) was observed making a transaction. Detective Numssen stated that a transmission would have been put over point to point radio with his description. However, Detective Numssen did not recall what exactly was put over the radio on this date regarding § 87(2)(b). Detective Numssen could not recall which members of the team were also in the park at this time.

Detective Numssen stated that officers apprehended the individual with whom § 87(2)(b) made the transaction and this individual was in possession of marijuana. Detective Numssen stated that § 87(2)(b) had an additional quantity of marijuana on him and a crack pipe with cocaine residue on it. Detective Numssen stated that other individuals were arrested at this location on this day, but he did not recall how many individuals were arrested or any of their names.

Detective Numssen stated that it is procedure that everyone who is placed in handcuffs is field searched, which is a quick search at the scene. Detective Numssen stated that he could not recall who would have performed a search on § 87(2)(b). Detective Numssen stated that he did not witness any officer performing a strip search on § 87(2)(b) in the park. Detective Numssen only entered the park to place § 87(2)(b) in the prisoner van. They then drove directly to the 6th Precinct stationhouse.

At the 6th Precinct stationhouse, § 87(2)(b) was lined up outside of the bathroom, handcuffed, with the other prisoners. Detective Numssen stated that he and Detective Gordon were bringing each prisoner individually into the bathroom in order to strip search them. Detective Numssen stated that the bathroom was located on the first floor of the precinct in a short hallway. It is not visible to individuals in the stationhouse, as it is located behind a wall of soda machines. The door was closed during the search of § 87(2)(b).

Detective Numssen stated that Sergeant Fitzgerald authorized the strip search. Detective Numssen asked § 87(2)(b) to remove his hat and jacket, and § 87(2)(b) complied. § 87(2)(b) was then asked to remove the chains he wore around his neck, which Detective Numssen described as three large, heavy chains, and § 87(2)(b) refused. During the interview, Detective Numssen stressed the importance of removing such items as it could lead to the death of another prisoner or a suicide. Detective Numssen stated that he and Detective Gordon decided to handcuff § 87(2)(b) and let their supervisor "decide how a noncompliant prisoner would be dealt with."

Detective Numssen and Detective Gordon verbally informed § 87(2)(b) that they intended to handcuff him. § 87(2)(b) placed his hands in his pockets and refused to be handcuffed and said that it was “not going to happen.” Detective Gordon and Detective Numssen then approached § 87(2)(b) to place him in handcuffs. Detective Gordon grabbed § 87(2)(b)’s right forearm and raised his hand out of his pocket so that a handcuff could be placed on his exposed wrist. At this point, Detective Gordon was standing immediately in front of § 87(2)(b) and Detective Numssen was standing to Detective Gordon’s right side. Detective Numssen stated that § 87(2)(b) lowered his shoulder and pushed into Detective Gordon’s stomach and rib area. Consequently, Detective Gordon was pushed backwards into a bathroom partition that was two feet behind him. Detective Numssen positioned himself behind § 87(2)(b) in order to get leverage on him and prevent him from attacking Detective Gordon. Detective Numssen grabbed § 87(2)(b)’s hips and tried to pull him back from Detective Gordon. Detective Numssen then yelled for assistance from other members of his field team. In resistance, § 87(2)(b) then swung his hips and Detective Numssen’s right hand was hit against the tile wall of the bathroom, and his hand became sandwiched between § 87(2)(b)’s body and the wall.

Detectives Numssen and Gordon were able to pull § 87(2)(b)’s hands behind his back and they handcuffed him. This was simultaneous to the other officers arriving. Detective Numssen stated that Officer Ortiz was one of the officers that responded. Detective Numssen stated that he was in the bathroom with § 87(2)(b) for approximately four minutes.

Sergeant Fitzgerald ordered Detective Numssen to the hospital to get his hand examined and Detective Gordon escorted him. Other members of Detective Numssen’s field team took control of § 87(2)(b). Detective Numssen stated that an ambulance was called to check on § 87(2)(b). Detective Numssen stated that § 87(2)(b) refused medical assistance when the ambulance arrived. Detective Numssen stated that he did not witness § 87(2)(b) deny medical attention, however, because he was at the hospital. He only witnessed the request for an ambulance for § 87(2)(b).

Detective Numssen added that § 87(2)(b) was not injured, nor was he thrown to the ground or tackled. Detective Numssen further stated that pictures were taken of § 87(2)(b) and there were no indications of visual injuries from the photograph.

Detective Numssen could not recall if § 87(2)(b) complained of any injuries after the struggle in the bathroom. Detective Numssen did not observe any injuries on § 87(2)(b) after the struggle. Detective Numssen stated that an ambulance is always called in cases where there is an altercation between two individuals in the precinct, especially if one is an officer. Detective Numssen stated that no weapons were used to gain § 87(2)(b)’s compliance. Detective Numssen stated that he did not observe Detective Gordon stab § 87(2)(b)’s hand with a key or any other type of object, and he did not do this action. Detective Numssen stated neither he nor any other officer punched § 87(2)(b) in the back of his head.

Detective Numssen stated that he sustained a deep contusion to his right hand. He was ordered to take four days off by the district surgeon of the NYPD in order to heal. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

The Criminal Court Complaint stated that § 87(2)(b) kicked the deponent and Detective Numssen stated that this was written in error. Detective Numssen added for the record that he had testified to his recount of the incident in two different courts, and § 87(2)(b) has been found guilty in both courts.

***Detective Erik Ruiz***

Detective Ruiz did not have any **memo book** [Encl. 12 a-b] entries pertaining to the incident.

**CCRB Statement**

*Officer Ruiz is a Hispanic male officer. He was interviewed at the CCRB on July 16, 2008 at 10:39 AM [Encl. 12 c-e]. On April 15, 2008, Detective Ruiz worked in plainclothes from 3:00 PM until 10:00 PM. He was assigned to the prisoner van with Detective Numssen in an unmarked silver Ford. He provided the following statement to the CCRB:*

Detective Ruiz did not have an independent recollection of the incident on April 15, 2008. When shown the tactical plan, Detective Ruiz noted that according to the plan, the team was observing the “usual places.” When asked if he was at Washington Square Park on this date, Detective Ruiz stated that he was there to pick up the prisoners. When shown a picture of § 87(2)(b) Detective Ruiz stated that he recognized him. Detective Ruiz stated that he remembered § 87(2)(b) getting into the prisoner van and he also took § 87(2)(b) through the arrest process. Detective Ruiz added that he had arrested § 87(2)(b) on a previous occasion.

Detective Ruiz stated that at Washington Square Park, he performed a search on § 87(2)(b) to make sure that he was not in possession of any weapons. When asked where on § 87(2)(b) s body he was searched, DEA Representative Carnelli stated, “He touched the whole body. If they’re going into the prisoner van, their whole body gets touched. He’s under arrest. They go through his pockets, they go through everything.” Detective Ruiz agreed. Detective Ruiz later stated that he also searched the waistband. Detective Ruiz stated that he did not recall recovering anything during this search. He stated that he did not see any other officer perform a search on § 87(2)(b) before Detective Ruiz performed one. When asked if he saw any other officer come in physical contact with § 87(2)(b) Detective Ruiz stated, “Whoever the chase car was. Whoever had him I don’t recall.” Detective Ruiz stated that he only saw § 87(2)(b) handcuffed and then he was immediately brought to the prisoner van. Detective Ruiz could not recall which officers escorted § 87(2)(b) to the prisoner van.

Detective Ruiz stated that he believed they continued to work for a little longer before returning to the precinct stationhouse. § 87(2)(b) was escorted into the stationhouse and Detective Ruiz stayed behind to clean out the prisoner van and check for contraband. Detective Ruiz stated that he began to search the prisoner van immediately after the prisoners were brought into the stationhouse. Detective Ruiz stated that he searched the vehicle for approximately ten to fifteen minutes before Sergeant Fitzgerald instructed him to go into the stationhouse to continue a search on § 87(2)(b) Detective Ruiz stated that from that point on, he was with § 87(2)(b) Detective Ruiz stated that most likely other members of the field team were securing the prisoners in the stationhouse.

When asked if he was aware of an incident with § 87(2)(b) in the 6th Precinct stationhouse’s bathroom, Detective Ruiz replied, “All I know is that my boss called me and told me to go in there and just finish the job and that was it.” Sergeant Fitzgerald instructed Detective Ruiz to continue the search on the prisoners. Detective Ruiz stated that when he entered the bathroom, he performed a search on § 87(2)(b) Detective Ruiz stated that § 87(2)(b) was in handcuffs but he was combative and cursing at the officers. Sergeant Fitzgerald was standing at the door to supervise and Detective Ruiz stated that another officer was in the bathroom to assist him, but he could not recall which officer this was. Later in the interview, Detective Ruiz stated that the other officer was most likely Officer Ortiz. Detective Ruiz stated that he did not recall if anything was recovered from this search. The search lasted ten minutes. Detective Ruiz stated that Sergeant Fitzgerald told him that there had been an incident with § 87(2)(b) but he was not informed as to what happened.

Detective Ruiz stated that § 87(2)(b) did not complain of any injuries while he was in the bathroom. He stated that § 87(2)(b) began to complain of injuries when he was placed in the holding cell, which was where he was placed immediately after he was taken out of the bathroom. When asked what § 87(2)(b) was complaining of in the cell, Detective Ruiz stated, “He wasn’t complaining much of anything.” Detective Ruiz stated that pictures were taken of § 87(2)(b) out of formality. Detective Ruiz stated that a bus was called for him, but § 87(2)(b) refused medical attention. Detective Ruiz stated that the bus

was called out of procedure. Detective Ruiz stated that § 87(2)(b) also refused medical attention when he was taken to Central Booking. Detective Ruiz stated that the commanding officers at Central Booking asked him a third time if he wanted to go to the hospital, and § 87(2)(b) refused again.

Detective Ruiz stated that he did not observe any injuries on § 87(2)(b) in the stationhouse besides § 87(2)(b)'s missing eye, which was a prior injury. Detective Ruiz stated that he did not notice any injuries on § 87(2)(b) before he was placed in the prisoner van.

Detective Ruiz stated that § 87(2)(b) asked for his name and it was provided. Detective Ruiz stated that he did not hear § 87(2)(b) ask for any other officer's name. Detective Ruiz stated that he did not punch § 87(2)(b) in the back of his head nor did he witness any other officer do this. Detective Ruiz stated that neither he nor any other officer jabbed § 87(2)(b) in the palm of his hand with a key or any other type of sharp instrument. Detective Ruiz stated that he did not hear § 87(2)(b) ask for medical attention and he refused it when it was offered. Detective Ruiz stated that he did not strip search § 87(2)(b) and did not see any other officer strip search § 87(2)(b) at Washington Square Park.

#### ***Officer Frederic Ortiz***

Officer Ortiz did not have any **memo book** [Encl. 11 a-b] entries pertaining to the incident.

#### **CCRB Statement**

*Officer Ortiz is a 5'10"-tall Hispanic male weighing 185 pounds with brown eyes and is bald. He was interviewed at the CCRB on September 2, 2008 at 11:28 AM [Encl. 11 c-d]. On April 15, 2008, Officer Ortiz was assigned to the chase vehicle at Manhattan South Narcotics and worked 10:00 AM until 6:00 PM. Officer Ortiz was working in plainclothes with Detective Eric Ruiz. Officer Ortiz did not recall the description of the unmarked vehicle they were operating. He provided the following statement to the CCRB:*

On April 15, 2008, Officer Ortiz was inside the 6th Precinct stationhouse, located at 233 West 10th Street in Manhattan. He was guarding the prisoners who were lined up outside of the bathroom. Officer Ortiz was then called into the bathroom because Detective Robert Numssen called for help. Officer Ortiz called to the sergeant at the desk and informed him that he was running into the bathroom. When Officer Ortiz entered the bathroom, Detective Numssen and Detective Shawn Gordon were trying to handcuff a civilian, identified as § 87(2)(b). The two detectives were on either side of § 87(2)(b) and § 87(2)(b) was not allowing the officers to handcuff him. Officer Ortiz stated that § 87(2)(b) "physically restrained his hands, not allowing them to be cuffed." Officer Ortiz assisted the officers in pulling § 87(2)(b)'s hands together so that they could be handcuffed. Officer Ortiz stated that § 87(2)(b) was handcuffed shortly after his arrival in the bathroom. Officer Ortiz stated that other officers from the command ran into the bathroom after Officer Ortiz.

Officer Ortiz stated that he did not notice any physical injuries on § 87(2)(b) and he was not complaining of any injuries. Officer Ortiz added that he couldn't recall what anyone said at this point. Officer Ortiz stated that the sergeant, Sergeant Frank Fitzgerald, removed Detectives Numssen and Gordon after § 87(2)(b) was handcuffed and Officer Ortiz didn't "deal with them." Officer Ortiz stated that he believed they left for the hospital at that point.

Sergeant Fitzgerald instructed Detective Ruiz to finish the search on § 87(2)(b) and Officer Ortiz stood behind Detective Ruiz. Officer Ortiz was unable to recall if anything was recovered from the search. § 87(2)(b) was then placed in the holding cell area. Officer Ortiz stated that § 87(2)(b) was not allowed into the holding cell because he was deemed too violent. § 87(2)(b) was handcuffed to a bench outside of the holding cell. § 87(2)(b) remained on the bench for a few hours and Officer Ortiz stated that he spoke with § 87(2)(b) but he did not recall what was said. Officer Ortiz stated that § 87(2)(b) did not ask for his name or any of the other officers for their names. Officer Ortiz stated that § 87(2)(b) never requested medical attention. Officer Ortiz stated that they obtained medical attention for him and § 87(2)(b) refused it. Officer Ortiz transported § 87(2)(b) to central booking.

Officer Ortiz stated that he did not punch § 87(2)(b) nor did he stick a sharp object into the palm of his hand. Officer Ortiz stated that he did not witness any other officer do this. Officer Ortiz added that he normally works at the 10th Precinct and he was assigned to Manhattan South Narcotics for the day.

### **Officers Not Interviewed**

Sergeant Frank Fitzgerald was not interviewed because according to the New York City Police Department, he resigned on May 30, 2008.

### **Medical Records**

A report completed by Prison Health Services, contracted by NYC Department of Health and Hygiene, stated that on § 87(2)(b), § 87(2)(b) complained of body aches, especially concerning his right elbow and lower back. It indicated that § 87(2)(b) admitted this was his first visit for services and he also stated, "My lawyer says I should be seen." On § 87(2)(b), § 87(2)(b) returned and gave "history of left elbow injury during arrest. Presently denies pain." On § 87(2)(b), § 87(2)(b) requested medication because he was "having depression and anxiety because the police beat [him] up." On § 87(2)(b) the interpretation of a radiographic exam of § 87(2)(b)'s right elbow performed by § 87(2)(b), demonstrated "no evidence of acute fracture, dislocation or destructive bony lesion. The joint spaces are relatively well maintained" [Encl. 14 a-g].

### **Police Documents**

The **Roll Call** [Encl. 15 a-b] for the Manhattan South Narcotics Division on April 15, 2008, indicated that Sergeant Fitzgerald worked from 10:00 AM until 6:35 PM. Detective Ruiz, Detective Gordon, Detective Numssen, and Detective Rabah worked from 9:27 AM until 6:00 PM. Officer Ortiz worked from 9:33 AM until 6:00 PM.

The **Tactical Plan** [Encl. 16] on April 15, 2008, indicated that the team leader for the day was Sergeant Fitzgerald and he was in a blue Ford with Detective Rabah. Detective Gordon and Officer Ortiz were assigned to a tan Mitsubishi and Detectives Numssen and Ruiz were assigned the prisoner van, which is a silver Ford. Washington Square Park was one of their set-up locations and they were specifically concerned with the sale of marijuana and crack.

The **Command Log** [Encl. 17] stated that at 3:25 PM, § 87(2)(b) was brought to the 6th Precinct. His arresting officer was Detective Rabah. He was transported to Manhattan Central Booking at 10:10 PM.

The **Prisoner Holding Pen Roster** [Encl. 18] stated that § 87(2)(b) was in the cell at 3:20 PM. Detective Ruiz was guarding the cell during this time.

The **Field Test Results** [Encl. 19] indicated that the "one twist of marijuana" that was vouchered for § 87(2)(b) tested positive for marijuana. Detective Rabah was the testing officer.

The **Property Vouchers** [Encl. 20 a-b] indicated that § 87(2)(b) had been in possession of a crack pipe with residue, a twist of marijuana, and New York State inmate cards and each item was vouchered.

The **Prisoner Property Envelope Cover Sheet** [Encl. 22 a-b] was completed by Detective Rabah and it stated that § 87(2)(b) sold a quantity of marijuana to another apprehended individual. A search incident to lawful arrest revealed a crack pipe and marijuana. It also indicated that § 87(2)(b) received a wallet, two benefit cards, two white metal teeth pieces, three chains with medallion, one key, one identification and one pendant.

The **Arrest Photo** [Encl. 23] for § 87(2)(b) was received.

## Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

## CCRB Histories

Detective Robert Numssen, an eleven-year veteran of the NYPD, was recommended charges for two substantiated allegations in case # 200605897. No disciplinary action was taken by the NYPD [Encl. 2]. Detective Shawn Gordon, a seventeen-year veteran of the NYPD, Detective Erik Ruiz, a nine-year veteran of the NYPD, and Officer Frederic Ortiz, a four-year veteran of the NYPD, have had no substantiated CCRB allegations [Encls. 1, 3 and 4]. § 87(2)(b) has previously filed complaint § 87(2)(b).

## Conclusions and Recommendations

### Officer Identification

§ 87(2)(b) provided the names of Officer Ortiz, Detective Ruiz, Detective Gordon, Detective Numssen and Detective Rabah. § 87(2)(b) stated that his wife, § 87(2)(b) obtained Detective Numssen's name when she went to the stationhouse to retrieve his jewelry. § 87(2)(b) knew at the time that one of the officers claimed that § 87(2)(b) had injured his hand during the incident. She stated that she spoke with an officer whose hand was bandaged and that she asked him his name, which he provided as Detective Numssen. § 87(2)(b) claimed that he learned Detective Ruiz and Officer Ortiz's names because he spent a lot of time with them throughout the incident. Finally, § 87(2)(b) stated that he spoke with the District Attorney, who helped him obtain the names of the officers. § 87(2)(b) specified that Detective Numssen and Detective Gordon were the only two officers in the bathroom when the alleged force occurred. He stated that the officer who hurt his hand, Detective Numssen, was the officer who punched him in the back of the head. Detective Numssen admitted going line of duty from the incident in the bathroom with § 87(2)(b) § 87(2)(g). § 87(2)(b) then specified that the other officer in the bathroom, Detective Gordon, was the officer who stabbed his hand in the bathroom and also the officer who strip-searched him at Washington Square Park. § 87(2)(g). § 87(2)(b) stated that he asked Detective Ruiz and Officer Ortiz for their names and they refused to provide them.

### Undisputed Facts

It is undisputed that a quarrel began in the 6th Precinct stationhouse between § 87(2)(b) Detective Numssen and Detective Gordon when § 87(2)(b) refused to remove his jewelry.

### Disputed Facts

§ 87(2)(g)

### Assessment of Evidence

§ 87(2)(b) claimed that Detective Gordon unbuttoned the fly of his jeans and after checking around the waistband of his boxers, put his hands down near the bottom of § 87(2)(b)'s boxers. § 87(2)(b) stated that he jerked away so that Detective Gordon would not go near his anal cavity and his pants fell down. § 87(2)(b) stated that his pants fell down because they were loosened when Detective Gordon put his hands into § 87(2)(b)'s boxers. Detective Gordon stated that he only frisked § 87(2)(b) and stayed on the outside of his clothes the entire time. All of the officers interviewed stated that none of the officers





§ 87(2)(g) Detectives Numssen and Gordon denied that § 87(2)(b) was punched in the back of the head.

§ 87(2)(b) stated that he knew Detective Ruiz and Officer Ortiz's names because he had spent time with them during the time he was in the stationhouse. § 87(2)(b) then stated that Detective Ruiz and Officer Ortiz told him their names. Finally, § 87(2)(b) stated that when he requested their names, the officers did not provide them. § 87(2)(g)

**Allegation A: Detective Shawn Gordon strip-searched § 87(2)(b)**

§ 87(2)(b) stated that Detective Gordon strip searched him in Washington Square Park. Detective Gordon stated that he only frisked § 87(2)(b) and all of the officers interviewed denied that anyone performed a strip search on § 87(2)(b) § 87(2)(g)

**Allegation B: Detective Shawn Gordon stabbed § 87(2)(b)'s hand with a key.**

**Allegation C: Detective Robert Numssen used physical force against § 87(2)(b)**

As noted in the Assessment of Evidence, Detective Numssen denied punching § 87(2)(b) in the back of his head and Detective Gordon denied stabbing § 87(2)(b) in the palm of his hand with a key. § 87(2)(b) and § 87(2)(b) were not present for the incident in the bathroom, § 87(2)(g)

**Allegation D: Detective Erik Ruiz refused to provide his name to § 87(2)(b)**

**Allegation E: Officer Frederic Ortiz refused to provide his name to § 87(2)(b)**

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: